

160.303: continued

(3) Where a service closes and patients are not referred, the agency shall be responsible for the secure storage of such records. Public notice shall be given regarding the date of service termination and the site at which such records shall be secured. The records shall be sealed and retained for six years from the date of the program's closure. At the end of six years the records shall be destroyed.

**160.304: Confidentiality**

(A) Patient specific information shall be privileged and confidential and shall only be made available in conformity with all applicable state and federal laws and regulations regarding the confidentiality of patient records, including but not limited to, 42 CFR Part 2, as effective August 10, 1987.

(B) Patient specific information shall only be made available:

- (1) To medical personnel in a medical emergency;
- (2) To qualified personnel for the purpose of conducting scientific research, management audits or program evaluations;
- (3) If authorized by an order of a court of competent jurisdiction, as required by federal regulations; or
- (4) Where authorized by the prior informed consent of the patient.

(C) Patient's informed consent shall be in writing and shall contain:

- (1) The specific name or general designation of the program or person permitted to make the disclosure;
- (2) The name or title of the individual or the name of the organization to which disclosure is to be made;
- (3) The name of the patient;
- (4) The purpose of the disclosure;
- (5) How much and what kind of information is to be disclosed;
- (6) The signature of the patient and, when required for a patient who is a minor, the signature of a person authorized to give consent, or, when required for a patient who is incompetent or deceased, the signature of a person authorized to sign in lieu of the patient;
- (7) The date on which the consent is signed;
- (8) A statement that the consent is subject to revocation at any time except to the extent that the program or person which is to make the disclosure has already acted in reliance on it; and
- (9) The date, event, or condition upon which the consent will expire if not revoked before. This date, event or condition must insure that the consent will last no longer than reasonably necessary to serve the purpose for which it is given.

(D) Any disclosure made, whether it be with or without the patient's consent, shall be limited to information necessary in light of the need and purpose for the disclosure.

(E) Authorization for release of information shall have a duration no longer than that necessary to accomplish the purpose for which it is given.

(F) Unless requested by the patient only the administrator or his/her designee shall release information from patient records.

(G) A request for release of information by a patient shall not be denied.

(H) All present or past staff members who have access to, knowledge of, or possess any information pertaining to, present or former patients shall be governed by 105 CMR 160.000.

(I) The licensee shall, as part of its orientation, notify all staff members and patients, in writing, of these confidentiality requirements. Evidence of this notification shall appear in both personnel and clinical records.

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160.305: Patient Rights

(A) The licensee shall make every effort to safeguard the legal and civil rights of each patient. Each licensee shall adopt and maintain a currently updated set of agency rules which shall state the responsibilities and the rights of patients.

(B) Specific Patient Rights. The licensee shall guarantee patient freedom from physical and psychological abuse. At a minimum, these rights shall include freedom:

- (1) From strip searches,
- (2) To have control over his/her bodily appearance as long as one's appearance does not conflict with the program's policy regarding health, hygiene and treatment plan,
- (3) To examine his/her patient record,
- (4) To challenge information in his/her patient record by inserting a statement of clarification,
- (5) To terminate treatment at any time, unless committed to treatment under M.G.L. c. 123, § 35,
- (6) From signing over his/her public assistance, food stamps, or other income to the licensee except when it is part of a mutual treatment agreement signed by both the patient and the licensee,
- (7) To be informed of his/her patient rights,
- (8) To bathe, shower and meet personal hygiene needs in a reasonable manner at a reasonable time,
- (9) To have regular physical exercise, when clinically appropriate,
- (10) To wear his/her own clothes, unless clinically contraindicated,
- (11) To send and receive sealed letters. Where the licensee deems it necessary, mail shall be inspected for contraband in the presence of the patient.
- (12) To be given regular and private use of a pay telephone, and,
- (13) To have visitors at reasonable times. Visits by the patient's attorney and personal physician shall not be limited.

(C) The agency rules shall also include a written grievance procedure for the resolution of any patient related problem or dispute which arises within the agency.

(D) Prior to any enacting of a rule modifications affecting the areas listed in 105 CMR 160.305(B), the licensee shall submit a written justification to Department prior to implementing such a change.

160.310: Policies

(A) Each licensee shall describe, in writing, the agency's current personnel policies and practices and shall make them available to all staff members.

(B) Such personnel policies shall include a description of:

- (1) The criteria and procedures for hiring, assigning, promoting, and suspending or dismissing a staff member.
- (2) The procedure for handling staff complaints and grievances.
- (3) Provisions for vacations, holidays, paternity and maternity leave, educational leave, sick leave, and other leaves of absence, and fringe benefits.
- (4) Procedures for disciplinary actions.
- (5) Procedures for work performance appraisal.

160.311: Job Descriptions

(A) The licensee shall make available job descriptions of all positions which include salary ranges.

(B) The licensee shall evaluate the job performance of all staff members. Such evaluation shall be done annually and a copy placed in the employee's record.

160.312: Personnel Records

- (A) The licensee shall maintain a personnel record for each employee.
- (B) Such records shall be kept confidential and at a minimum contain:
  - (1) A copy of the employee's application for employment or resume;
  - (2) Evidence that the employee is currently certified, licensed or registered where applicable laws require certification, licensure, or registration;
  - (3) Evidence of training received; and
  - (4) Annual performance evaluations;
  - (5) Evidence of annual Tuberculin skin tests.

160.313: Training

- (A) The licensee shall provide ongoing staff training and supervision appropriate to the size and nature of the agency and staff involved.
- (B) The licensee shall have a written plan for the professional growth and development of all personnel. At a minimum, this plan shall include:
  - (1) Staff training in the requirements of appropriate state and federal laws and regulations;
  - (2) Orientation procedures; and
  - (3) Regular and scheduled in-service training programs.

160.314: Volunteers

Volunteers and student interns may be used only as an adjunct to regular paid staff and not as a substitute for a paid workforce. Student interns and volunteers providing individual and/or group counseling shall be screened, oriented, trained and supervised in a manner consistent with 105 CMR 160.000.

160.320: Staffing Pattern

The agency shall provide adequate and qualified personnel for administrative, medical, clinical and support services necessary to fulfill the service objectives and to satisfy the intent of 105 CMR 160.000.

160.321: Multidisciplinary Team

- (A) In order to meet patient needs a multidisciplinary team shall be employed which includes professionals with a variety of expertise. The team may include physicians, psychiatrists, psychologists, social workers, nurses, substance abuse counselors with Masters or Bachelor degrees in a related field and certified substance abuse counselors.
- (B) The agency shall ensure that patients have access to this expertise on-site or on an on-call basis to the extent required to meet their needs.
- (C) Cases presenting unique issues or of special educational value to staff shall be presented to the multidisciplinary team for consideration. A summary of the multidisciplinary case conference must be included in the patient record.

160.322: Minimum Staffing Requirements

- (A) The staff of the service must include:
  - (1) A Medical Director,
  - (2) Two full time equivalent registered nurses one of whom may be in a supervisory capacity, one each for two of the three work shifts,
  - (3) A full time licensed practical nurse for the remaining shift, and,
  - (4) A minimum of one full-time Clinician II.
- (B) The licensee shall provide adequate supervision for the clinical/educational operation of the service.

160.323: Consultation and Supervision

- (A) A Registered Nurse supervisor must be available for adequate supervision and ongoing consultation for all nursing staff.
- (B) Consultation to nursing staff must be available 24 hours per day, seven days per week from a fully qualified physician or psychiatrist, either on site or through an affiliation agreement.
- (C) A Clinician I (with the exception of the individual cited in 105 CMR 160.322(B), shall receive a minimum of one hour of individual or group consultation every two weeks and an additional minimum of one hour per month if he/she is responsible for supervising other staff.
- (D) A Clinician II shall receive a minimum of one hour of individual or group supervision each week.
- (E) A Clinician III shall receive two hours of individual supervision and an additional two hours of individual or group supervision per month.
- (F) Staff who are not full-time employees of the service shall receive supervision in proportion to the number of hours worked, with a minimum of one hour of supervision per month.
- (G) Consultation to staff must be available from a fully qualified physician or psychiatrist, either on-site or through an affiliation agreement. If services are to be available through an affiliation agreement, this agreement shall be reaffirmed yearly.
- (H) Documentation of supervision must be available for review.

160.400: Hours of Operation

The service shall provide care 24 hours a day, seven days per week.

160.401: Admission

- (A) Each licensee shall establish written admission eligibility criteria and shall make such criteria available to prospective patients upon application for admission. A copy of the criteria shall be posted conspicuously in an area frequented by all patients.
- (B) Each licensee shall establish a formal intake procedure for potential new admissions and re-admissions. During the intake session the licensee shall accumulate and record all pertinent patient information to effectively evaluate a patient's eligibility for the service and his/her service needs.
- (C) Patients who do not meet eligibility requirements or who are inappropriate for the agency's service shall, where need exists, be referred to an appropriate service, person, agency or court.
- (D) Each licensee shall maintain a log of applications denied admission.
- (E) Upon admission into treatment, or as soon as the patient is medically cleared, the licensee shall obtain and shall make a part of the patient record:
  - (1) A consent to treatment form,
  - (2) For patients receiving methadone, Form FD-2635, and,
  - (3) When the patient is under the age of 18, except in the case of an emancipated minor, the consent form shall be signed by the patient and the patient's parent or legal guardian.

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160.402: Orientation

The licensee shall provide a new patient with an orientation which will familiarize him/her with the rules, procedures, activities, policies, and philosophy of the program, including program requirements for participation and disciplinary, termination, and grievance procedures. Written evidence of this orientation shall appear in the clinical record.

160.403: Evaluation and Diagnosis

(A) Immediately upon admission a physical assessment of the patient shall be made by a qualified health professional. Within 24 hours of admission, a complete physical examination shall be completed. If the examination is conducted by a qualified health professional and not a physician, the results of the examination and any recommendations made as a result of the examination, shall be reviewed by the nursing supervisor prior to implementation. For multiple admissions, the time, frequency and interval of a complete physical examination shall be subject to physician discretion.

(B) Upon admission, or as soon as the patient's physical condition permits, a thorough personal history shall be obtained.

(C) Both the medical and psychosocial evaluation and medical include an assessment of the patient's psychological, social, health, economic, educational/vocational status; related legal problems; involvement with alcohol and drugs and any other associated conditions. The evaluation must be completed before a comprehensive service plan is developed for the patient.

(D) When the initial evaluations indicate a need for further assessment, the program shall conduct or make referral arrangements for necessary testing, physical examination and/or consultation by qualified professionals.

(E) If the psychosocial evaluation is performed by a Clinician III, it must be reviewed and approved, in writing, by his/her supervisor.

160.404: Service Plan

(A) Each patient shall have a written initial individualized service plan developed based on information gathered during the admission and evaluation sessions. Service plans developed or revised by a Clinician III shall be reviewed and signed by his/her supervisor.

(B) The service plan and any subsequent updates shall include at least the following information:

- (1) A statement of the patient's problem in relation to his/her misuse of alcohol and drugs,
- (2) Service goals with timelines,
- (3) Evidence of patient involvement in formulation of the service plan,
- (4) Aftercare goals,
- (5) The date the plan was developed and/or revised,
- (6) The signatures of staff involved in its formulation or review.

(C) Individual service plans shall be reviewed with the patient and amended, as necessary. A summary of such periodic reviews shall become a part of the patient record.

160.405: Medical Services

(A) Where appropriate, the licensee shall operate in accordance with:

- (1) M.G.L. c. 94C
- (2) The rules and regulations of the Federal Food and Drug Administration (FDA), and
- (3) The rules and regulations of the Drug Enforcement Administration (DEA).

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(B) The Medical Director shall be responsible for administering all medical services performed by the service, be licensed to practice medicine in the Commonwealth of Massachusetts, and where possible have experience in working with substance abusing persons. In addition, the Medical Director, or any other authorized staff physician shall be responsible for the following minimum requirements:

- (1) Ensuring that a medical evaluation, including a medical history has been taken,
- (2) Ensuring that appropriate laboratory studies have been performed, and,
- (3) Signing or countersigning all medical orders.

(C) Physical Examinations. The physical examination shall, at a minimum, include an investigation of the possibility of infectious diseases, pulmonary, liver, and cardiac abnormalities, dermatologic sequelae of addiction and possible concurrent surgical problems. Prior to prescribing, dispensing or administering any drug, the licensee shall assure itself that the drug will not interfere with any other drug(s) the patient has reported taking.

(D) Laboratory Tests

- (1) Each patient shall receive a tuberculin skin test at least every 12 months, when the tuberculin skin test is positive, a chest x-ray,
- (2) When appropriate, the licensee shall also perform the following laboratory tests within 48 hours after admission:
  - (a) Urine screening for drug determination,
  - (b) Complete blood count and differential,
  - (c) Serological test for syphilis,
  - (d) Routine and microscopic urinalysis,
  - (e) Urine for Glucose and Protein (GL/PR),
  - (f) Liver function profile, *e.g.* SGOT, SGPT, *etc.*,
  - (g) An EKG,
  - (h) Australian Antigen HB AG testing (HAA testing), and,
  - (i) A pregnancy test.

(E) Where the drug being dispensed is a narcotic-like substance or a narcotic antagonist, two or more proofs of narcotic or other drug dependence must be present. Such proofs may consist of:

- (1) Two or more positive urine tests for opiate or morphine-like drugs,
- (2) The presence of old and fresh needle marks,
- (3) Early physical signs of withdrawal,
- (4) Documented evidence from the medical and personal history,
- (5) Physical examination, and,
- (6) Laboratory tests.

(F) Pharmacological services shall be provided as needed by staff physicians.

(G) The licensee shall document in the patient record any situation that requires a patient to stay in treatment longer than the prescribed service plan indicated. The record shall be updated every seven days.

160.406: Counseling Services

(A) Services offered shall include:

- (1) Individual counseling,
- (2) Group counseling,
- (3) Educational groups,
- (4) Self-help groups such as Alcoholics Anonymous, Al-Anon and Narcotics Anonymous and,
- (5) Structured social rehabilitative activities.

160.406: continued

- (B) The licensee shall provide each patient who has been medically cleared with a minimum of ten hours of direct service per week, including:
  - (1) At a minimum, one hour of individual counseling,
  - (2) Four hours of group counseling, and
  - (3) Five hours of education, self-help or social rehabilitation.
- (C) Patient assignment to staff should be based on a patient's needs and staff expertise.
- (D) The licensee shall provide case management which shall at a minimum include:
  - (1) Crisis referrals,
  - (2) Health care referrals,
  - (3) Continuum of care referrals,
  - (4) Aftercare referral.
- (E) The licensee shall provide or make referral arrangements for the provision of additional services as needed.
- (F) The licensee shall provide AIDS education to all patients admitted to the service. AIDS education shall be provided by a qualified professional and conform to policies set forth by the Department. Evidence of this AIDS education shall appear in the patient record.
- (G) Where the licensee utilizes an outside agency(ies) for the provision of direct patient services, formal written agreements shall be maintained and reaffirmed every two years.

160.407: Termination

- (A) The licensee shall establish and maintain written procedures detailing the termination process and shall incorporate them into the policies as described in 105 CMR 160.402. These procedures shall include:
  - (1) Written criteria for termination, defining:
    - (a) Successful completion of the program,
    - (b) Voluntary termination prior to program completion,
    - (c) Involuntary termination,
    - (d) Medical discharge, and,
    - (e) Transfers and referral.
  - (2) Rules of required conduct and procedures for both emergency and non-emergency involuntary terminations in accordance with the following requirements:
    - (a) In an emergency situation, where the patient's continuance in the program presents an immediate and substantial threat of physical harm to other patients or program personnel or property or where the continued treatment of a patient presents a serious medical risk to the patient as determined by the medical director or the nurse-in-charge, the licensee may suspend a patient immediately and without provision for further detoxification. The patient shall be afforded an appeal as described in the program policies.
    - (b) In a non-emergency situation, wherein the patient's continuance does not present the immediate and substantial threat or serious medical risk described in 105 CMR 160.407(A)(2)(a), the licensee may not terminate the patient without first affording him/her the following procedural rights:
      - 1. A statement of the reasons for the proposed termination and the particulars of the infraction, including the date, time and place,
      - 2. Notification that the patient has the right to request an appeal, according to program policies,
      - 3. The date, time and place of the appeal if the patient elects to appeal, and,
      - 4. A copy of the licensee's grievance procedures.
- (B) Upon termination a written discharge summary shall be included in the patient record.

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- (C) The discharge summary shall contain, but need not be limited to:
  - (1) Description of the treatment episode,
  - (2) Sobriety status and a description of current drug and alcohol use,
  - (3) Reason for termination,
  - (4) A summary of any disciplinary action taken, including:
    - (a) The reasons therefor, and,
    - (b) Patient notification of appeal, and,
  - (5) Referrals

160.408: Aftercare

- (A) The licensee shall make referral arrangements for the provision of post discharge counseling and other supportive service.
- (B) The licensee shall maintain and make available to patients as needed, a file of available community service which shall include a description of the services, its address and phone number and the name of a contact person.
- (C) Aftercare service referrals shall be documented in the patient record.

**REGULATORY AUTHORITY**

105 CMR 160.000: M.G.L. c. 111B, § 6; c. 111E, § 7.

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Attachment 4.19A (1)

**State Plan Under Title XIX of the Social Security Act  
State: Massachusetts  
Institutional Reimbursement**

**TN 96-11  
STATE PLAN AMENDMENT  
INPATIENT ACUTE HOSPITAL**

**EXHIBIT 12: 114.3 CMR 46.00**

**OFFICIAL**

114.3 CMR: RATE SETTING COMMISSION  
BUREAU OF AMBULATORY CARE

114.3 CMR 46.00: RATES FOR CERTAIN SUBSTANCE ABUSE PROGRAMS

Section

- 46.01: General Provisions
- 46.02: Definitions
- 46.03: Filing and Reporting Requirements
- 46.04: Rate Provisions
- 46.05: Administrative Information Bulletins
- 46.06: Severability of the Provisions of 114.3 CMR 46.00

46.01: General Provisions

- (1) Scope. 114.3 CMR 46.00 governs rates of payment to be used by all governmental units making payment to eligible providers for Acute Treatment Services, Recovery Home, Residential Drug-Free Program, Substance Abuse Outpatient Counseling, Outpatient Methadone Medical Service, Driver Alcohol Education Services, Enhanced Detoxification Day Treatment, and Case Management to publicly assisted clients.
- (2) Disclaimer of Authorization of Services. 114.3 CMR 46.00 is neither authorization for nor approval of the substantive services for which rates are determined pursuant to 114.3 CMR 46.00. Governmental units which purchase services from eligible providers are responsible for the definition, authorization, and approval of services extended to publicly assisted clients.
- (3) Effective Date. 114.3 CMR 46.00 shall be effective from April 1, 1995 for the Division of Medical Assistance, and effective January 1, 1995 for all other purchasers.
- (4) Authority. 114.3 CMR 46.00 is adopted pursuant to M.G.L. c. 6A, §§ 31 through 48.

46.02: Definitions

Meaning of Terms. As used in 114.3 CMR 46.00 unless the context requires otherwise, terms shall have the meanings ascribed in 114.3 CMR 46.02.

Acute Treatment Services (Inpatient) Level III A, B, and C. These medically monitored acute intervention and stabilization services provide supervised detoxification to individuals in acute withdrawal from alcohol or other drugs and /or address the biopsychosocial problems associated with alcoholism and other drug addictions requiring a 24 hour supervised inpatient stay.

- (a) Level IIIA services provide acute detoxification and related treatment to individuals assessed as being at risk of severe withdrawal syndrome, utilizing detoxification protocols, standing orders, and physician consultations. These services are governed by the Massachusetts Department of Public Health Regulation 105 CMR 160.000. A facility licensed under 114.3 CMR 46.00 may provide Levels III A, B and C.
- (b) Level IIIB services provide continuing medical assessment and intensive counseling and case management for clients who are not intoxicated or have been safely withdrawn from alcohol or other drugs and who require a 24 hour supervised inpatient stay to address the acute emotional, behavioral and/or biomedical distress resulting from an individual's use of alcohol or other drugs. These services are governed by the Massachusetts Department of Public Health Regulation 105 CMR 161.000. A facility licensed under 114.3 CMR 46.00 may provide Levels III B and C.
- (c) Level IIIC services provide inpatient transitional services, including continuing medical assessment, counseling and aftercare planning, for clients who have completed a Level IIIA or IIIB service and who are expected to be transferred to a longer term residential rehabilitation program. These services are governed by the Massachusetts Department of Public Health Regulation 105 CMR 161.000. A facility licensed under 114.3 CMR 46.00 may provide Level C.

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46.02: continued

Alcoholism Recovery Home. The program of services defined as a 'Halfway House' in the Massachusetts Department of Public Health's Rules and Regulations for Halfway Houses for Alcoholics.

Approved Program Rate. The rate per service unit approved by the Commission and filed with the Secretary of the Commonwealth.

Case Consultation. Consultation with another agency or person when the provider has accepted a patient for treatment and continues to assume primary responsibility for the patient's treatment, while the other agency continues to provide ancillary services.

Case Management. Services, as specified by the Division of Medical Assistance, that coordinate the substance abuse treatment of pregnant women with the other medical and community services which are critical to the needs of the woman and her pregnancy. Case Management is billable only for women enrolled in the Intensive Outpatient Program. Service is limited to one hour per week per enrollee, provided in no less than 15 minute increments.

Clients. Recipients of service units within a program.

Client Resources. Revenue received in cash or in kind from publicly assisted clients to defray all or a portion of the cost of program services. Client resources may include payments made by publicly assisted clients to defray the room and board expense of residential services, clients' food stamps, or payments made by clients according to ability to pay or sliding fee scale.

Commission. The Rate Setting Commission appointed under M.G.L. c. 6A, § 32.

Cost Report. The document used to report costs and other financial and statistical data. The Uniform Financial Statements and Independent Auditor's Report (UFR) are used when required.

Couple Counseling. Therapeutic counseling provided to a couple whose primary complaint or concern is disruption of their relationship and/or family, due to Substance Abuse.

Day Treatment. A highly structured substance abuse treatment day program that meets the service criteria set forth by the Department of Public Health and the Division of Medical Assistance. A Day Treatment Program operates at least four hours per day, five to six days per week.

Driver Alcohol Education. The program of services, provided through licensed substance abuse counseling programs, legislated by M.G.L. c. 90, § 24D to first offender drunk drivers adjudicated in Massachusetts courts.

Educational/Motivational Session. A meeting between staff of a Driver Alcohol Education Program and not more than 12 clients. Clients are required to participate in 32 hours of this interactive group programming either in 16 two-hour groups or 21 90-minute groups.

Eligible Provider. Any individual, group, partnership, trust, corporation or other legal entity which offers services for purchase by a governmental unit and that meets the conditions of purchase or licensure which have been or may be adopted by a purchasing governmental unit.

Enhanced Acute Treatment Services. A program to detoxify pregnant women from alcohol and/or drugs that involves special medical protocols to address the needs of pregnancy and that includes other medical and support components to ensure quality of both substance abuse treatment and obstetrical care.

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46.02: continued

Established Charge. The lowest fee that is charged by the eligible provider to the general public or any third party payor, other than a governmental unit, for the provision of one program service unit. Fees which are based upon the client's ability to pay, as in the case of a sliding fee scale, and fees that are subject to Commission review and approval shall not be deemed to be established charges.

Family Counseling. The therapeutic counseling of more than one member of a family at the same time in the same session, where the primary complaint or concern is disruption of the family due to Substance Abuse.

Group Counseling. Therapeutic counseling to an unrelated group of people having a common problem or concern which is associated with Substance Abuse. Groups are limited to 12 clients.

Governmental Unit. The Commonwealth of Massachusetts and any Board, Commission, Department, Division, or Agency of the Commonwealth of Massachusetts or political subdivision thereof.

Individual Counseling. A therapeutic meeting between an individual whose primary complaint or concern is Substance Abuse, and the staff of an eligible provider.

Individual Assessment Session. A meeting between staff of a Driver Alcohol Education Program and an individual client to explore the client's drinking habits and to place the client in the appropriate educational track in the group programs. Each client must participate in two hours of assessment.

Methadone Medical Services Visit. A methadone medical services visit includes medical assessment, medical case management, and dispensing of medication to opiate addicted individuals who require support of methadone chemotherapy, as noted in the Department of Public Health's standard RFP program description.

Operating Agency. An individual, group partnership, corporation, trust or other legal entity that operates a program.

Publicly Assisted Client. A person who receives program services for which a governmental unit is liable, in whole or in part, under a statutory program of financial assistance.

Purchasing Governmental Unit. A governmental unit that has purchased or is purchasing service units from an eligible provider.

Reimbursable Operating Costs. Those costs reasonably incurred or expected to be incurred by a program in the provision of care except those costs delineated in accordance with 114.3 CMR 46.06.

Related Party. A person or organization that is associated or affiliated with, has control of, or is controlled by the operating agency or any director, stockholder, partner, or administrator of the operating agency by common ownership or control or in a manner specified in sections 267(b) and (c) of the Internal Revenue Code of 1954 as amended, provided, however, that 10% shall be the operative factor as set out in sections 267(b)(2) and (3) and provided further that the definition of "family members" found in section 267(c)(4) of said code shall include for the purpose of 114.3 CMR 46.00:

- (a) husband and wife,
- (b) natural parent, child, and sibling,
- (c) adopted child and adoptive parent,
- (d) stepparent and stepchild,
- (e) father-in-law, mother-in-law, sister-in-law, brother-in-law, son-in-law, and daughter-in-law, and
- (f) grandparent and grandchild.

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46.02: continued

Reporting Year. The operating agency's fiscal year for which costs incurred are reported to the Division of Purchased Services on the Uniform Financial Statements and Independent Auditor's Report (UFR), normally July 1st to June 30th.

Residential Drug-Free Program. The program of services defined in the Massachusetts Department of Public Health Regulation 105 CMR 750.000 Licensure and Approval of Drug Treatment Programs.

Substance Abuse Outpatient Counseling. The services defined in the Massachusetts Department of Public Health Regulation 105 CMR 162.00. Substance Abuse Outpatient Counseling Services.

46.03: Filing and Reporting Requirements

(1) Reporting for Annual Review. Unless exempted herein, each Operating Agency shall on or before the 15th day of the fifth month after the end of its fiscal year, submit to the Commission:

- (a) a copy of its Uniform Financial Statement and Independent Auditor's report completed in accordance with the filing requirements of the Division of purchased services, Department of Administration and Finance.
- (b) Supplemental program questionnaire, if requested by the Commission.

(2) Penalties.

- (a) An Operating Agency's Approved Rate shall be reduced by 25% of the Approved Rate for the number of late days. Late days shall be defined as the total number of days between the Operating Agency's due date for filing a completed Cost Report package as defined in 114.3 CMR 46.03(1) and the date the Operating Agency's completed RSC Cost Report package as defined in 114.3 CMR 46.03(1) is received by the Commission.
- (b) Additional Information Requested by the Commission. Each Operating Agency shall file such additional information as the Commission may from time to time require no later than 21 days after the date of mailing of that written request. If the Commission's request for the missing information and/or documentation is not fully satisfied through the submission of written explanation(s) and/or documentation within 21 days of the mailing of that request, all costs relative to that request shall be excluded from rate development.

(3) General Provisions.

- (a) Accurate Data. All reports, schedules, additional information, books, and records that are filed or made available to the Commission shall be certified under pains and penalties of perjury as true, correct and accurate by the Executive Director or Chief Financial Officer of the Operating Agency.
- (b) Examination of Records. Each Operating Agency shall make available all records relating to its operation and all records relating to a realty service or related party or holding company or any entity in which there may be a common ownership or interrelated directorate upon request of the Commission for examination.
- (c) Field Audits. The Commission may from time to time conduct a field audit. The Commission shall make reasonable attempts to schedule an audit at the mutual convenience of both parties.

46.04: Rate Provisions

(1) Services included in the Rate. The approved rate shall include payment for all care and services that are or have been customarily part of the program of services of an eligible provider, subject only to the terms of the purchase agreement between the eligible provider and the purchasing governmental unit(s).

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46.04: continued

(2) Reimbursement as Full Payment. Each eligible provider shall, as a condition of acceptance of payment made by one or more purchasing governmental units for services rendered, accept the approved program rate as full payment and discharge of all obligations for the services rendered, subject only to appellate rights as set forth in M.G.L. c. 6A. There shall be no duplication or supplementation of payment from sources other than those expressly recognized or anticipated in the computation of the rate. Any client resources or third party payments received on behalf of a publicly assisted client shall reduce, by that amount, the amount of the purchasing governmental unit's obligation for services rendered to the publicly assisted client.

(3) Payment Limitations. Except as provided in 114.3 CMR 46.04(2), no purchasing governmental unit may pay less than or more than the approved program rate.

(4) Approved Program Rates. The rate of payment for authorized services shall be the lower of the established charge or rate listed below:

(a) Services paid by all public purchasers *except* Medicaid:

<u>Service</u>	<u>Rate</u>
1. Acute Inpatient Treatment Services	
Level IIIA	\$ 140.00 per day
Level IIIB	\$ 100.00 per day
Level IIIC	\$ 70.00 per day
2. Enhanced Acute Treatment Services	
	\$49.95 per day <i>plus</i> proper Acute Treatment services base rate from 114.3 CMR 46.04(4)(a)1.
3. Day Treatment	\$55.00 per day
4. Alcoholism Recovery Home;	
Greater than 20 beds	\$ 43.54 per day
20 beds or less	\$ 46.82 per day
5. Driver Alcohol Education;	
Individual Assessment Session	\$ 51.08 per hour
Educational/Motivational Session	\$ 19.88 per 1½ hr.
6. Substance Abuse Outpatient Counseling;	
Individual Counseling	\$ 51.08 per hour
Couple/Family Counseling	\$ 61.32 per hour
Group Counseling	\$ 19.88 per 1½ hr.
Case Consultation and Methadone Counseling;	\$ 51.08 per hour
7. Methadone Medical Services visit	\$ 9.61 per visit
8. Residential Drug-Free;	
Greater than 20 beds	\$ 43.54 per day
20 beds or less	\$ 46.82 per day

(b) Services paid by Medicaid:

<u>Service</u>	<u>Rate</u>
1. Acute Inpatient Treatment Services	
Level IIIA	\$ 140.00 per day
Level IIIB	\$ 100.00 per day
Level IIIC	\$ 70.00 per day
2. Enhanced Acute Treatment Services	
	\$49.95 per day <i>plus</i> proper Acute Treatment services base rate from 114.3 CMR 46.04(4)(a)1.

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<u>Service</u>	<u>Rate</u>
3. Day Treatment	\$55.00 per day
4. Case Management	\$8.00 per 15 minute session
5. Substance Abuse	
Outpatient Counseling:	
Individual Counseling	\$ 50.68 per hour
Couple/Family Counseling	\$ 60.84 per hour
Group Counseling	\$ 19.72 per 1½ hr.
Case Consultation and Methadone	\$ 50.68 per hour.
Counseling	
6. Methadone Medical Services Visit	\$9.61 per visit

46.05: Administrative Information Bulletins

The Commission may, from time to time, issue administrative information bulletins to clarify its policy upon and understanding of substantive provisions of 114.3 CMR 46.00. In addition, the Commission may issue administrative information bulletins which specify the information and documentation necessary to implement 114.3 CMR 46.00 if necessary for informed consideration of program rate requests.

46.06: Severability of the Provisions of 114.3 CMR 46.00

The provisions of 114.3 CMR 46.00 are severable, and, if any provision of 114.3 CMR 46.00 or application of such provision to any eligible provider or fiscal intermediary in any circumstance shall be held to be invalid or unconstitutional, such invalidity shall not be construed to affect the validity or constitutionality of any remaining provisions of 114.3 CMR 46.00 or application of such provisions to eligible providers or fiscal intermediaries in circumstances other than those held invalid.

REGULATORY AUTHORITY

114.3 CMR 46.00: M.G.L. c. 6A, §§ 31 through 48.

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